

Message Text

CONFIDENTIAL

PAGE 01 TEGUCI 03713 01 OF 02 071726Z
ACTION L-03

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FM AMEMBASSY TEGUCIGALPA

TO SECSTATE WASHDC IMMEDIATE 1130

C O N F I D E N T I A L SECTION 1 OF 2 TEGUCIGALPA 3713

DEPARTMENT PASS ARA/CEN WADE MATTHEWS

E.O. 11652: GDS

TAGS: EFIN, BDIS, HO

SUBJ: DEL WEBB, INC., CLAIM

REF: (A) STATE 196505, (B) TEGUCIGALPA 3152, (C) TEGUCIGALPA
3062, (D) TEGUCIGALPA 2952, (E) TEGUCIGALPA 2944

1. EMBASSY LAST WEEK RECEIVED A COPY OF A RESOLUTION OF THE GOVERNMENT OF HONDURAS CONCLUDING ITS CONSIDERATION FOR THE FIFTH TIME OF THE SUBJECT FIRM'S CLAIM FOR PAYMENT OF COST OVER-RUNS ON THE TELA-LA CEIBA HIGHWAY PROJECT DURING 1967-72. THE 3-PAGE RESOLUTION, SIGNED BY CHIEF OF STATE GENERAL MELGAR AND FINANCE MINISTER ZAVALA FINDS THE CLAIM PRESENTED BY DEL WEBB'S ATTORNEY, JORGE FIDEL DURON AND DATED SEPTEMBER 21, 1977, TO BE WITHOUT LEGAL BASIS QUOTE POR SER IMPROCEDENTE EN DERECHO UNQUOTE. THE RESOLUTION CITES MORE DETAILED REBUTTALS CONTAINED IN THE 19-PAGE REPORT AND OPINION PREPARED BY OFFICES OF THE MIN-ISTERIES OF PUBLIC WORKS AND FINANCE WHICH WAS TRANSMITTED TO THE DEPARTMENT EARLY IN JULY 1978. ACCORDING TO MR. DURON, THESE TWO DOCUMENTS CONSTITUTE THE GOH RESPONSE TO DEL WEBB.

2. IN VIEW OF APPARENT EFFORTS BY THE DEL WEBB REPRESENTATIVE TO CONVEY THE IMPRESSION TO DEPARTMENT AND TO CONGRESS THAT HONDURAS
CONFIDENTIAL

CONFIDENTIAL

PAGE 02 TEGUCI 03713 01 OF 02 071726Z

HAS BEEN UNRESPONSIVE TO THE COMPANY'S APPROACHES FOR SETTLE-MENT (SEE REFTEL A), AS A PRETEXT FOR MOBILIZING CONGRESSIONAL SUPPORT FOR A PUNITIVE SUSPENSION OF AID TO HONDURAS, THE EM-BASSY IS SEPARATELY TELEGRAPHING FULL TEXT OF RESOLUTION. THE DEPARTMENT WILL NOTE, FROM COMPREHENSIVENESS OF THE 19-PAGE REPORT (SPANISH TEXT) AND OF THIS FINAL RESOLUTION, THAT IT WOULD SEEM APPARENT THAT THE GOH HAS HAD THE CLAIM UNDER ACTIVE

CONSIDERATION DURING MOST OF THE TIME SINCE ITS SUBMISSION FOR RE-CONSIDERATION ON SEPTEMBER 23, 1977 (ACTUAL DATE OF DELIVERY TO MINFIN). MR. JOHN BYRNE (DEL WEBB REPRESENTATIVE) APPEARS TO BE PURSUING THIS COURSE OF CONGRESSIONAL PRESSURE BASED ON PARTIAL DISCLOSURE. HE IS FULLY AWARE OF CONTENTS OF THE FINANCE MINISTRY REPORT/OPINION AND THAT FINAL RESOLUTION WAS IMMINENT. THIS WOULD SEEM TO RAISE QUESTIONS REGARDING CREDITBILITY OF THE DEL WEBB POSITION. THE GOH DECISION BASED ON THOROUGH REVIEW WOULD ALSO SEEM TO RAISE SERIOUS QUESTIONS ABOUT THE SOLIDITY OF THE DEL WEBB CLAIM. IF SENATORS AND CONGRESSMEN UNDERSTAND THE FACTS OF THE SITUATION, THIS MIGHT WELL MODERATE THEIR POSITION AND INHIBIT THE CONGRESS BEING USED IN A SITUATION WHICH WOULD SEEM TO HAVE CERTAIN UNSAVORY CHARACTERISTICS.

3. THE EMBASSY AGAIN INVITES DEPARTMENT'S ATTENTION (SEE PARA 4 REF B) TO FACT THAT THIS IS FOURTH TIME IN PAST FIVE YEARS THAT DEL WEBB HAS ASKED GOH TO RECONSIDER ITS CLAIM. EACH TIME THE GOH CLEARLY RESPONDED THAT IT WAS WITHOUT LEGAL BASIS. THE EMBASSY BELIEVES, AND DEL WEBB'S LOCAL ATTORNEY AGREES, THAT GOH PATIENCE IN REPEATEDLY RECONSIDERING THE CLAIM IS WEARING THIN. THE QUESTION NATURALLY ARISES AS TO HOW MANY TIMES A GOVERNMENT SHOULD BE CALLED UPON, WITH EMBASSY AND CONGRESSIONAL PURSUASION, TO CONSIDER SUCH A CLAIM WITHOUT ERODING US GOOD WILL AND ADVERSELY AFFECTING OVERALL US INTERESTS. FOLLOWING IS A RECAP OF THE FIVE OCCASIONS DEL WEBB CLAIM CONSIDERED:

CONFIDENTIAL

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PAGE 03 TEGUCI 03713 01 OF 02 071726Z

A. MARCH 30, 1973, CLAIM SUBMITTED; TURNED DOWN NOVEMBER 12, 1974.

B. FEBRUARY 11, 1975, DEL WEBB OFFICERS MET WITH GOH MINFIN ACOSTA BONILLA AND MINISTER OF PUBLIC WORKS (SECOPT) APARICIO AND OTHERS FOR RECONSIDERATION; CLAIM AGAIN REJECTED FOR LACK OF LEGAL BASIS.

C. OCTOBER 1, 1975, DEL WEBB LETTER (DATED AUGUST 28, 1975) DELIVERED TO SECOPT MINISTER APARICIO SEEKING RECONSIDERATION; FOLLOWING A CHANGE OF MINISTERS, THE NEW MINISTER INFORMED DEL WEBB IN A DECEMBER 4, 1976, LETTER THAT AFTER CAREFUL CONSIDERATION THE CLAIM WAS FOUND TO BE WITHOUT JUSTIFICATION.

D. JULY 1977, MR. BYRNE ASKED SECOPT TO RECONSIDER; FOLLOWING FURTHER STUDY, SECOPT MINISTER FLORES THERESIN ADVISED THAT NO BASIS WAS FOUND FOR THE CLAIM.

E. SEPTEMBER 23, 1977, DEL WEBB LETTER OF SEPTEMBER 21, 1977 DELIVERED TO MINISTER OF FINANCE PORFIRIO ZAVALA; DURING A CALL ON ZAVALA IN MID-DECEMBER 1977. MR. BYRNE (ACCOMPANIED BY SENATOR DECONCINI AND EMBOFF) WAS ADVISED THAT THE CLAIM WAS UNDER

REVIEW, BUT COPIES OF THE CONTRACTS WOULD BE NEEDED TO REACH A DECISION; CONTRACTS DELIVERED JANUARY 1978; MINISTRY OF FINANCE RESOLUTION ISSUED JULY 21, 1978, AS NOTED PARA ONE, ABOVE.

4. IT WOULD SEEM FROM DEPTTEL (REF A) THAT DEL WEBB AND CONGRESSMEN INTERESTED IN ITS CLAIM ARE NOT FULLY INFORMED OF THE ATTENTION GIVEN THE CASE BY THE GOH AT THE HIGHEST LEVELS, OF INVOLVEMENT OF THE AMBASSADOR AND EMBASSY OFFICERS IN MAKING REPRESENTATION ON DEL WEBB'S BEHALF AT MINISTERIAL LEVEL AND HIGHER, AND OF THE FACT THAT THE GOH HAS PATIENTLY CONSIDERED THE CASE NOW FOR THE FIFTH TIME. THE EMBASSY WOULD BE WILLING TO ASSIST IN PREPARING LETTERS TO INTERESTED CONGRESSMEN AS A MEANS TO UP-DATE THEIR KNOWLEDGE OF THE CASE. SUCH LETTERS COULD BE FOLLOW-ON RESPONSES TO PRIOR CONGRESSIONAL INQUIRIES. THE
CONFIDENTIAL

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PAGE 04 TEGUCI 03713 01 OF 02 071726Z

DEPARTMENT MEANWHILE MAY WISH TO TAKE ADVANTAGE OF AUGUST 8 VISIT OF ARIZONA CONGRESSIONAL DELEGATION TO INFORM THEM, ALONG WITH DEL WEBB REPRESENTATIVE. CONTENTS OF THIS CABLE AND FOUR REFERENCED EMBTELS CONTAIN FULL INFORMATION IN AREAS CITED EARLIER THIS PARAGRAPH.

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PAGE 01 TEGUCI 03713 02 OF 02 071727Z
ACTION L-03

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FM AMEMBASSY TEGUCIGALPA

TO SECSTATE WASHDC IMMEDIATE 1131

C O N F I D E N T I A L SECTION 2 OF 2 TEGUCIGALPA 3713

DEPARTMENT PASS ARA/CEN WADE MATTHEWS

5. IF DEL WEBB STILL WISHES TO SEND A REPRESENTATIVE TO HONDURAS, NOW THAT GOH HAS ONCE AGAIN CONCLUDED CONSIDERATION, THE EMBASSY IS PREPARED TO PROVIDE APPROPRIATE NORMAL ASSISTANCE.

DEPARTMENT IS REQUESTED TO CONVEY TO DEL WEBB THE ADVICE OF THEIR ATTORNEY THAT A REQUEST FOR AN APPOINTMENT WITH FINMIN ZAVALA SHOULD, HOWEVER, BE MADE DIRECTLY BY THE FIRM. MR. DURON OFFERED THIS ADVICE TO HONDURAS DESK OFFICER FIGGINS AND EMBOFF AUGUST 4, ADDING THAT HE FELT MR. ZAVALA WOULD BE MORE RECEPTIVE BECAUSE LATTER IS ANNOYED AT OFFICIAL US INTERVENTION THIS CASE. AS FOR TIMING OF SUCH APPOINTMENT, MR. DURON SUGGESTED WEEK BEGINNING AUGUST 27 WHEN HE WOULD BE AVAILABLE.

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